

**STATE OF RHODE ISLAND
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**IN RE: PHILIP BONGIOVANNI
RESPONDENT**

COMPLAINT NO. NF2018-1

DECISION AND ORDER OF THE ETHICS COMMISSION

This matter was adjudicated before the State of Rhode Island Ethics Commission ("Commission") on June 18, 2019, pursuant to R.I. Gen. Laws §§ 36-14-13, 42-35-9 and Commission Regulation 520-RICR-00-00-3.22 Hearing to Determine Violation of the Code of Ethics (1015). The following Commissioners were present for the adjudicative hearing and participated in the deliberations and rendering of this Decision and Order: Ross Cheit, Chair; Marisa A. Quinn, Vice Chair; Arianne Corrente, Secretary; M. Therese Antone; Robert A. Salk; Emili B. Vaziri; and Kyle P. Palumbo. Teresa Giusti prosecuted the case. The Respondent was duly notified of the hearing but did not appear. Herbert DeSimone, Jr. attended all proceedings as legal counsel for the Commission.

TRAVEL OF THE CASE

On November 8, 2018, Steven T. Cross, Chief Investigator for the Commission, filed a complaint with the Commission. The Complaint alleged that the Respondent violated R.I. Gen. Laws § 36-14-16 by failing to timely file an annual financial disclosure statement for the 2017 calendar year.

Pursuant to R.I. Gen. Laws § 36-14-12(C)(4) and Commission Regulation 520-RICR-00-00-3.11 Finding of Probable Cause (1006), the Commission conducted a probable cause hearing in this matter on April 9, 2019. The Respondent was provided notice of the probable cause hearing by regular mail on March 7, 2019. The Respondent did not appear at the April 9th hearing. After considering the Complaint, the Investigative Report, and the arguments of counsel, the Commission unanimously adopted the following findings of probable cause: That there is probable cause to believe that the Respondent, Philip Bongiovanni, violated R.I. Gen. Laws § 36-14-16 by failing to timely file a 2017 Financial Disclosure Statement with the Rhode Island Ethics Commission.

The Respondent was provided notice of the adjudicative hearing by certified mail on May 1, 2019. The hearing, which was originally scheduled for May 21, 2019, was continued on that day to June 18, 2019. The Respondent was notified that the hearing was continued to June 18th. The Respondent did not attend either hearing. A stenographer was present during the entirety of the proceedings. The Prosecution offered evidence through the affidavits and exhibits of Michelle Berg, Commission Financial Disclosure Officer, and Steven T. Cross, Chief

Commission Investigator. After deliberating in open session, the Commission, by a vote of 6-1, found that the Respondent had committed a knowing and willful violation of Rhode Island General Laws 36-14-16 by failing to timely file the 2017 Financial Disclosure Statement and imposed a civil penalty of Five Hundred (\$500) Dollars.

FINDINGS OF FACT

Based upon the uncontroverted evidence presented by the Prosecution in this matter, the Commission hereby makes the following findings of fact:

1. During 2017, Philip Bongiovanni served as a member of the Town of Barrington Planning Board.
2. On or about January 11, 2018, the Commission received a certified list of appointed and elected officials from the Barrington Town Clerk which reflected a mailing address for the Respondent of 15 Blanding Avenue, Barrington, RI 02806.
3. On or about March 20, 2018, a blank 2017 Financial Disclosure Statement form, along with instructions for online and paper filing were mailed to the Respondent at his designated address of 15 Blanding Avenue, Barrington, RI 02806.
4. The Commission did not receive the completed 2017 Financial Disclosure Statement from Respondent by the statutory deadline of April 27, 2018.
5. On or about June 18, 2018, a reminder notice indicating that the Commission had not received his Financial Disclosure Statement was mailed to the Respondent at his designated address of 15 Blanding Avenue, Barrington, RI 02806.
6. Neither the March 2018 nor the June 2018 mailing was returned to the Commission as undeliverable.
7. The instant Complaint along with a blank 2017 Financial Disclosure Statement, a Consent to Finding of Violation form, and a Schedule of Fines and Penalties for the Informal Disposition of Qualifying Financial Disclosure Complaints were sent to Respondent as part of the complaint packet at his designated address, 15 Blanding Avenue, Barrington, RI 02806.
8. After the complaint packet was returned to the Commission's Office as unclaimed on November 30, 2018, Chief Investigator Cross called the Respondent that same day and advised him of the complaint. Chief Investigator Cross further advised Respondent that he was required to file a 2017 Statement and provided him with his personal identification and pin for online filing.
9. On November 30, 2018, a second complaint packet was sent to Respondent via regular mail to his above listed home address; this packet was not returned to the Commission's Office as undeliverable.
10. On December 3, 2018, Respondent filed his 2017 Statement online. The following day, Chief Investigator Cross called Respondent to thank him for his filing but advised that the Complaint still needed to be addressed. Respondent stated that he would not pay a fine.
11. On May 1, 2019, notice that an Adjudicative Hearing was scheduled for May 21, 2019 at 9:00 a.m. was sent to Respondent via certified mail at his home address of 15 Blanding

Avenue, Barrington, RI 02806. The Commission received the return receipt card bearing the signature of Elizabeth Bongiovanni, Respondent's spouse, on May 7, 2019. The hearing was continued to June 18, 2019, and Respondent was duly notified. Respondent did not attend either hearing.

12. Respondent did not timely file his 2017 Financial Disclosure Statement.

CONCLUSIONS OF LAW

Upon consideration of the Findings of Fact set forth herein and the arguments presented at the hearing, the Commission concludes the following as a matter of law:

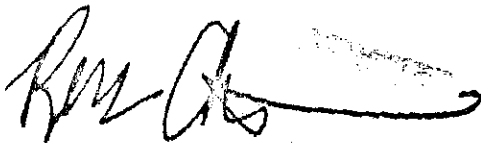
1. As an appointed member of the Town of Barrington Planning Board during 2017, the Respondent was, at all times material hereto, a municipal appointed official subject to the Rhode Island Code of Ethics in Government pursuant to R.I. Gen. Laws § 36-14-4(2).
2. As a municipal appointed official during calendar year 2017, the Respondent was required to file a 2017 Financial Disclosure Statement on or before April 27, 2018 pursuant to R.I. Gen. Laws § 36-14-16(a)(5).
3. By failing to timely file his 2017 Financial Disclosure Statement with the Commission, Respondent committed a knowing and willful violation of R.I. Gen. Laws § 36-14-16.

Therefore, based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED, ADJUDGED AND DECREED

1. That the Respondent committed a knowing and willful violation of Rhode Island General Laws 36-14-16 by failing to timely file a 2017 Financial Disclosure Statement with the Rhode Island Ethics Commission; and
2. That the Respondent, pursuant to Rhode Island General Laws 36-14-13(d)(3) shall pay a civil penalty of Five Hundred (\$500) Dollars.

Entered as an Order of the Rhode Island Ethics Commission on this 16th day of July 2019.



Ross Cheit, Chair
Rhode Island Ethics Commission